

## REAL PARTY IN INTEREST

(37 C.F.R. §1.192(c)(1))

The real party in interest is the assignee of the patent application, Monster Cable  
Products, Inc., doing business at 455 Valley Drive, Brisbane, California 94005-1209.

## RELATED APPEALS AND INTERFERENCES

(37 C.F.R. §1.192(c)(2))

On information and belief, no related appeals or interferences are pending.

## STATUS OF CLAIMS AND SUMMARY OF PROSECUTION HISTORY

(37 C.F.R. § 1.192(c)(3))

This continuation application (US 09/735,697), claiming priority to US 60/070,317 via US 09/735,697, was filed with Claims 8-9, 11-12, 14-15, 17-18, 20, 23, and 26. A Preliminary Amendment, canceling Claims 8-9, 11-12, 14-15, 17-18, 20, 23, and 26 and adding Claims 29-40, was also therewith filed. Subsequently, the then-Examiner, Sharon Polk, issued a final Office Action on August 28, 2001, maintaining her objection of Claims 37, 39, and 40, under 37 C.F.R. § 1.75(c), and her rejection of Claims 29-40, under 35 U.S.C. § 112, 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a). A Response to the August 28, 2001, final Office Action was filed on October 5, 2001.

Examiner Sharon Polk then reopened prosecution and issued a second final Office Action on November 5, 2001, wherein she withdrew her grounds for objection of the claims on the basis of 37 C.F.R. § 1.75(c), as well as her grounds for rejection of the claims on the bases of 35 U.S.C. § 112 and 35 U.S.C. § 102(b), but maintained her rejection of Claims 29-40 under 35 U.S.C. § 103(a). A Notice of Appeal was filed December 11, 2001, for Claims 29-40; and an Appeal Brief was filed February 8, 2002.

Subsequently, Examiner Sharon Polk reopened prosecution for a second time via a Telephonic Action on April 8, 2002. Therefore, she issued a non-final Office Action on May 6, 2002, wherein Claims 29-40 were rejected, but **wherein she implicitly *withdrew* the previously**

cited references, **Dwight (i.e., Kensington) (US Des. 401,220) and Barna (US 5,775,935)**, as grounds for rejection of the claims on the basis of 35 U.S.C. § 103(a), but maintained her rejection of Claims 29-40, relying only on Lee (US 5,589,718), in view of Sunabe (US 5,366,250), under 35 U.S.C. § 103(a).

5           An In-Person Interview was conducted on May 22, 2002, by the Applicant's Attorney, Mr. F. David LaRiviere, with Examiner Sharon Polk and her Supervisory Patent Examiner Brian Sircus, during which Supervisory Patent Examiner Brian Sircus suggested that the Applicant amend the claims to positively recite "the relationship between color and alpha [i.e., the peripheral device] can be changed" as shown in the Interview Summary of the same date. A  
10       Response was filed September 5, 2002, to the May 6, 2002, Office Action, wherein Claims 29-40 were canceled, without prejudice, and Claims 41-48 were added which positively recited "the relationship between color and alpha [i.e., the peripheral device] can be changed" as suggested by the Supervisory Patent Examiner. The case was then referred to "Sensitive Applications Division" of the USPTO, according to the Supervisory Patent Examiner in a telephone  
15       conference of December 29, 2002. The case was referred back to Examiner Sharon Polk who issued another final Office Action on January 16, 2003.

          An Amendment After Final Rejection was submitted on March 13, 2003. A Telephonic Interview was conducted on April 9, 2003, during which Examiner Polk indicated that she was unable to locate the March 13, 2003, Response, as well as the PTO file. The Applicant's  
20       Attorney advised her that the return acknowledgment postcard had been received from the PTO for the March 13, 2003, Response. A copy of the March 13, 2003, Response was subsequently transmitted by facsimile to Examiner Polk on the same day.

          In view of no further action by Examiner Polk, a Request for Reinstatement of the Appeal was filed on May 13, 2003. By August 19, 2003, no further action was rendered by the USPTO  
25       nor the Board of Patent Appeals and Interferences, which prompted a telephone call to Examiner Polk by the Applicant's Attorney. Examiner Polk returned the telephone call on August 21, 2003, and indicated that she was "working on it." However, the Applicant's Attorney was unable to determine whether "working on it" meant a reopening of prosecution or the preparation of an Examiner's Answer under the Appeal. With yet no further action on the case by October 2003,  
30       the Applicant's Attorney filed a Status Inquiry Letter in the USPTO on October 1, 2003, and telephoned the Supervisory Patent Examiner Brian Sircus on November 6, 2003, seeking some

indication of the present application's status. Supervisory Patent Examiner Brian Sircus returned that call on November 12, 2003, to report that Examiner Polk intended to reopen prosecution once more and that she would be contacting us telephonically. As no telephonic communication from Examiner Polk was received, the Applicant's Attorney placed another telephone call to Supervisory Patent Examiner Brian Sircus on November 14, 2003, during which he advised the Applicant's Attorney that Examiner Polk was not in the office for several days and that she would contact the Applicant's Attorney on November 17, 2003. Again, no communication was received from Examiner Polk. The Applicant's Attorney made yet another telephone call to the Supervisory Patent Examiner on November 18, 2003. Examiner Polk never called the Applicant's Attorney. Instead, she reopened prosecution and issued an Office Action on November 28, 2003, which was received by the Applicant's Attorney on December 1, 2003. The Applicant's Attorney found it necessary to call the Supervisory Patent Examiner on December 2, 2003, to request a copy of a missing non-patent cited reference from Examiner Polk's November 28, 2003, Office Action.

In a telephone conference with the Supervisory Patent Examiner on December 3, 2003, the Applicant's Attorney was advised that Primary Examiner Greg Toatley would assume responsibility for the case as Examiner Polk would no longer be in the employ of the USPTO. A Telephonic Interview was conducted on January 27, 2004, followed by an informal Response to Office Action filed on January 30, 2004. A second Telephonic Interview was conducted on February 4, 2004, with Primary Examiner Toatley, during which amendment to the claims was proposed. A formal Response to Office Action was filed on March 26, 2004, including an amendment to the claims consistent with those proposed during the February 4, 2004, Telephonic Interview. In that amendment, Claims 41-48 were canceled, without prejudice, and Claims 49-62 were added. On April 15, 2004, the Applicant's Attorney made a telephone call to the Primary Examiner to verify receipt of the March 26, 2004, Response to Office Action and to confirm receipt of the Acknowledgment Postcard on April 2, 2004. Primary Examiner Toatley stated that he had not received the Response and requested a fax copy of it. Another Telephonic Interview was conducted with the Primary Examiner on May 10, 2004, by Mr. F. David LaRiviere; and a corresponding Interview Summary was issued on May 12, 2004. On June 22, 2004, the Applicant's Attorney called Examiner Toatley regarding the March 26, 2004, Response to Office Action, during which Examiner Toatley reported that he had been promoted and that, yet, another examiner, Primary Examiner Robert DeBeradinis, would assume responsibility for the case.

By September 2004, as no further action was rendered by the USPTO on the case, the Applicant's Attorney telephoned the new examiner, Examiner DeBeradinis, on September 1, 2004. Telephonic Interviews were conducted on September 2, 2004, and September 7, 2004, during which further amendment to the claims was proposed in the belief, once again, that such amendment would place the application in condition for allowance. A Supplemental Amendment Response to Office Action was filed on September 22, 2004, wherein Claims 49, 56, and 58-61 were not substantially amended. Another Telephonic Interview was conducted on October 21, 2004, during which Examiner DeBeradinis indicated allowability of the claims. A telephone conference was made with Examiner DeBeradinis on October 28, 2004, during which Examiner DeBeradinis indicated that a Notice of Allowance would issue. On November 3, 2004, another telephone conference was held with Examiner DeBeradinis, during which he indicated that the Supplemental Amendment required further revision only as to informalities which is also shown in the October 28, 2004, Notice of Non-Compliant Amendment. On November 12, 2004, a Revised Supplemental Amendment Response to Office Action was filed in compliance with the October 28, 2004, Notice of Non-Compliant Amendment. Having not received a Notice of Allowance nor a Notice of Allowability by January 2005, the Applicant's Attorney consulted the USPTO online PAIR System on January 24, 2005. The PTO electronic record indicated that a Notice of Allowability indeed issued on November 15, 2004, but was never received by the Applicant's Attorney (See Exhibit A).

**However, on January 25, 2005, the electronic record of the November 15, 2004, Notice of Allowability was deleted from the USPTO PAIR System (See Exhibit B); and, instead, on January 31, 2005, the Applicant's Attorney received yet another Office Action dated January 25, 2005, wherein Claims 49-62 were rejected, citing a primary reference, Dwight (i.e., Kensington) (US Des. 401,220) and a secondary reference Barna (US 5,775,935), as grounds for rejection of the claims on the basis of 35 U.S.C. § 103(a), both of which were previously cited and implicitly *withdrawn* by Examiner Polk in the May 6, 2002, non-final Office Action, nearly three (3) years ago.**

A Telephonic Interview was conducted on February 9, 2005, by Mr. F. David LaRiviere for the purpose of pointing-out to Examiner DeBeradinis that both Dwight and Barna had already been previously cited and implicitly *withdrawn* by Examiner Polk, to which Examiner DeBeradinis replied that he was unaware of that part in the file history. He further stated that he

had decided to conduct an independent search of the prior art, without acknowledging the previous allowability of the claims, which resulted in Dwight and Barna being reasserted in the outstanding Office Action. In that Telephonic Interview, Examiner DeBeradinis also agreed to reconsider the application in light of this Response and in light of the file history.

The present continuation patent application has been in long, protracted, and piecemeal examination for more than six (6) years and has received at least eight (8) office actions in the continuation case alone, excluding many office actions in the parent case. The priority document, a provisional patent application (US 60/070,217), was filed on January 2, 1998, and its corresponding non-provisional patent application (US 09/221,761) was filed within one year on December 28, 1998. The Applicant believes that Claims 49-62, being substantially similar to the claims pending at the time of the May 6, 2002, non-final Office Action, are in condition for allowance and, alternatively for appeal.

## STATUS OF AMENDMENTS

**(37 C.F.R. §1.192(c)(4))**

No Amendment After Final Rejection nor Amendment After Second Final Rejection has been submitted. The Applicant believes that independent Claims 49 and 58, as filed, fully encompasses all of the inventive features as set forth in the Specification and is allowable.

## SUMMARY OF INVENTION

**(37 C.F.R. §1.192(c)(5))**

With the many possible combinations/permutations of electronic components (e.g., TV, VCR, DVD, etc.) available today, the consumer usually finds himself in a “**confusing tangled mess**” with respect to handling/managing all the cords emanating therefrom. Such is the problem with **prior art “plain” plug strips**, which provide no identifying information at all, where the average consumer needed *superior memory* to recall the electrical connections which were made long ago or *superior vision* to see those connections from any notable distance made between the plug strip and the equipment being plugged. Further, prior art means for tagging of electronic equipment were easily worn or dislodged. See Appendix B for an illustration of the prior art plug

strip problems. Solving these prior art problems, the claimed invention is basically a **solid color-coded plug strip** for supplying power to **many pieces of electronic equipment**, such as one would require in a home computer system (e.g., computer, printer, scanner, modem, etc.), a home theater system (e.g., TV, VCR, DVD, etc.), a home sound system CD, receiver, LP turntable, cassette player, P/A systems, electronic musical instruments, etc.), and a home security system (e.g., alarm system, surveillance equipment such as closed circuit television, CCTV, infrared sensor such as IR camera, motion detector, electronic gate motor, intercom, etc.). The presently claimed color coding, as applied to this plug strip, takes into consideration the **human factors engineering principles** and practical problems involved in setting-up and maintaining any of the foregoing electronic home systems for **the typical consumer who may not have a background in electrical engineering**. The solid colors on the plug strip allow the consumer to easily see the connection, even from a distance without having to remember, squint, or predict that connection. See Appendix B, page 57j, for an illustration of the present solid color coded plug strip solution to the prior art problems.

The present solid color coded plug strip comprises solid colored areas **on and surrounding each outlet**. The outlet areas of a prior art plain plug strip may be retrofitted by solid colored stickers of the present invention kit. In addition, the solid colored areas of the present invention plug strip may have their colors changed to suit the consumer by likewise retrofitting the strip with the solid colored stickers. The present **solid color coding on the plug strip** is **substantially more prominent to the human eye than the cited art colored rings or stripes**. A goal of the present invention is to *not* hardwire. Thus, the present invention provides nearly **unlimited flexibility** by allowing the consumer to customize his electronic “hook-ups” without “hang-ups.” Since the color-coding is applied to a plug strip rather than to a specialized electronic apparatus (e.g., a resistor), the user may connect *any* peripheral device to *any* outlet with *any* interconnect that he so chooses. The present invention allows the consumer to define the color-coding via the retrofitting option, because the interconnects and the stickers are not “hardwired.”

An **optional easy-to-use kit** may be provided with this solid color coded plug strip, the kit including **color coded cords, color coded stickers, and color coded indicia** may be provided which allows the consumer to **retrofit a prior art plain plug strip or to reassign the colors of the claimed solid color coded plug strip** as he/she so desires. The color coded

stickers and the color coded indicia may be adhered to plain prior art cords and to the electronic component. The color coded indicia have information (e.g., symbols, numbers, words, or acronyms) printed thereon about many types of consumer electronic equipment, enabling the consumer to easily further identify his electronic connection and the particular electronic component.

The present invention, as defined in the claims, is illustrated in Figures 2 and 3 of the Drawings and is described in the Detailed Description of the Invention beginning on page 6, line 27 of the continuation application. In one embodiment of the invention, the AC power distribution apparatus comprises: a solid color coded power strip apparatus 20N; a plurality of color coded power cords 35, 45, 55, (2) 45x, and 55x; and a plurality of color coded indicia elements  $I_{cx}$ . The power strip apparatus also comprises a housing with a plurality of AC outlet portions C1, C2, C3, C4, C5, ..., CX corresponding to outlet receptacles 23(a, b, c, d, e, ..., n) for providing AC power to the same plurality of peripheral electrical devices. Each AC outlet housing portion being colored with a first color that is different from another AC outlet housing portion. The plurality of power cords comprise a power cord colored to match said first color. The remaining power cords of the plurality of power cords, comprise power cords colored to match each of the other colors on the power strip 20N. The indicia elements are, by example, an adhesive-backing type label having a color that matches the color of the power cord and the corresponding color of the AC outlet housing portion. The indicia elements  $I_{cx}$  also comprise identifying information (e.g., words, acronyms, numerals, and symbols) about the peripheral device to be powered.

Another embodiment of the present invention comprises a kit. This kit comprises a plurality of indicia element sets for labeling a respective power strip AC outlet portion CX, power cord terminals, and the peripheral device to which AC power is desired to be distributed as well as stickers for retrofitting the portions CX. The kit is also then useful in retro-fitting an after-market AC power strip product.

The presently claimed method consists of the steps of providing the color coded power strip, the color coded power cords, and the color coded indicia elements with identification of the peripheral device 30 and systematically assigning a color to a particular peripheral device 30 to which that particular color is to be associated, and then attaching the color coded power cable to the corresponding AC outlet portion CX on the AC power strip 20N. Alternatively, the

present method may be that of providing the kit with indicia elements  $I_{cx}$  and assigning a particular color to a peripheral device 30, then applying the indicia element  $I_{cx}$  to the power strip AC outlet portion CX, the power cord terminal ends (e.g., 55a, 55b) and to the particular peripheral device 30.

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## ISSUES

### (37 C.F.R. § 1.192(c)(6))

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I. Whether Claims 49, 52, 56, and 58-62 are unpatentable, under 35 U.S.C. § 103(a), over Dwight (US Des. 401,220), in view of Barna (US 5,775,935).

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II. Whether Claims 50, 51, 54, and 55 are unpatentable, under 35 U.S.C. § 103(a), over Dwight (US Des. 401,220), in view of Barna (US 5,775,935), and in further view of Liner (US 5,708,554).

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III. Whether Claim 53 is unpatentable, under 35 U.S.C. § 103(a), over Dwight (US Des. 401,220), in view of Barna (US 5,775,935), and in further view of Crane (US 5,899,761).

IV. Whether the present application should be treated as “special” by the examiner under MPEP § 707.02.

V. Whether the rejection of previously allowed Claims 49-62 is improper under MPEP § 706.04.

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VI. Whether the rejection of previously allowed Claims 49-62 is improper under MPEP §§ 2125 and 2126.

## GROUPING OF CLAIMS

### (37 C.F.R. §1.192(c)(7))

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The claims do not stand nor fall together.